

**FILED**

**MAR 30 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

PORT OF SEATTLE, a Washington  
Municipal Corporation,

Plaintiff - Appellant,

v.

AVISTA CORPORATION, a Washington  
Corporation; AVISTA ENERGY, INC.;  
AVISTA POWER LLC, a Washington  
Corporation; EL PASO ELECTRIC  
COMPANY; PORTLAND GENERAL  
ELECTRIC COMPANY, an Oregon  
Corporation; POWEREX CORP., a  
Canadian Corporation; PPL MONTANA  
LLC, a Delaware Corporation; PUGET  
ENERGY, INC., a Washington  
Corporation; PUGET SOUND ENERGY,  
INC., a Washington Corporation;  
SEMPRA ENERGY RESOURCES;  
SEMPRA ENERGY TRADING;  
TRANSALTA CORP., a Canadian  
corporation; IDACORP, INC.; IDAHO  
POWER COMPANY,

Defendants - Appellees,

and

No. 04-55964

D.C. No. CV-03-02474-RHW

ORDER<sup>\*</sup>

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<sup>\*</sup> This disposition is not appropriate for publication and may not be  
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

IDACORP, INC., an Idaho Corporation;  
IDAHO POWER CO.; PACIFICORP, an  
Oregon Corporation; SCOTTISH POWER  
LLC, a public limited liability company of  
the United Kingdom; TRANSALTA  
ENERGY MARKETING, INC., a  
Canadian Corporation,

Defendants.

Appeal from the United States District Court  
for the Southern District of California  
Hon. Robert H. Whaley, United States District Judge, Presiding

Argued and Submitted March 7, 2006  
Pasadena, California

Before: THOMAS and TALLMAN, Circuit Judges, and FITZGERALD<sup>\*\*</sup>,  
District Judge.

The Port of Seattle (“Port”) appeals the district court’s dismissal with prejudice of its claims arising from its payment of wholesale electricity rates. The dismissal of the action by the district court is affirmed on the ground that the Port’s claims are barred by the doctrine of conflict preemption. *See* U.S. CONST. art. VI, cl. 2; *Gadda v. Ashcroft*, 377 F.3d 934, 946 (9th Cir. 2004) (as amended),

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<sup>\*\*</sup> The Honorable James M. Fitzgerald, Senior United States District Judge for the District of Alaska, sitting by designation.

*cert. denied*, 543 U.S. 876 (2004). The Port's requested relief squarely conflicts with existing FERC proceedings and orders. To avoid interfering with these proceedings, this case is dismissed.

**DISMISSED.**